



**Nationwide**<sup>®</sup>  
is on your side

Business planning

Employer-owned life  
insurance policies



# The effects of the Pension Protection Act of 2006



# Some things you need to know about Pension Protection Act

As you evaluate which planning strategies will meet the needs of your small business, you should be aware of the laws surrounding employer-owned life insurance policies.

In August of 2006, changes were made to the Internal Revenue Code that affect any business that purchases life insurance on one or more of its employees. Nationwide® is providing the following information as a way to help you determine your obligations. The information is not intended to provide tax, accounting or legal advice, and should be used only as a summary of key points.

According to Section 101(j) of the Internal Revenue Code, with employer-owned life insurance policies that are issued or modified after August 17, 2006, the death benefit is taxable where it exceeds the employer's cost basis in the contract. If, however, one of the following exceptions applies, and the notice and consent requirements are met, the death benefit will not be subject to tax.

The information contained herein was not intended to be used, and cannot be used, by anybody for the purpose of avoiding any penalties that may be imposed pursuant to the Internal Revenue Code. Seek advice from independent legal and tax advisors to determine how the information contained herein may apply in your particular circumstances.

Please keep in mind that federal tax laws are complex and subject to change. Any information contained here is based on current interpretations of the law and is not guaranteed. Nationwide and its representatives do not give tax or legal advice.

# the of 2006

***Exception one*** — For individuals who fall into one of the following categories:

- Working for the employer within 12 months of the date of death
- A director
- A highly compensated individual; “highly compensated” is defined as one of the following:
  - One of the five highest-paid officers
  - Among the highest-paid 35% of all employees

***Exception two*** — For life insurance proceeds that fall into one of the following categories:

- Payable directly to heirs or beneficiaries
- Payable to a trust that benefits the heirs or beneficiaries
- Payable to the estate of the insured
- Used to buy the deceased individual’s equity interest in the employer

Notice and written consent requirements:

- The employer must notify insured individuals in writing regarding the maximum amount of insurance that may be obtained, as well as the fact that the coverage may be maintained after the insured person no longer works for the employer
- The employer must also receive a written acknowledgement from each employee indicating that he or she accepts the provisions listed above

In addition to the requirements listed above, Internal Revenue Code Section 6039I requires the following reporting and disclosure from employers:

Employers must file a return that states:

- The number of employees at the end of the year
- The number of employees insured at the end of the year
- The total amount of insurance in force at the end of the year
- The employer’s name, address, taxpayer identification number and the type of business
- The employer has valid consent for each insured employee, or the number of employees from whom consent was not obtained

# Sample Authorization to Insure

Nationwide Life Insurance has provided this document as a sample agreement for your reference. It is not intended to be construed as legal advice. Since this type of agreement is often complex, you should employ a highly qualified independent attorney to ensure that it meets your needs, and you should consult with your attorney before formally adopting any agreement. Nationwide and its representatives do not provide legal or tax advice.

I, \_\_\_\_\_  
Employee's Full Name  
\_\_\_\_\_, acknowledge that  
\_\_\_\_\_  
Employer's Name  
\_\_\_\_\_ or a Trust established by  
\_\_\_\_\_  
Employer's Name  
\_\_\_\_\_ has an insurable interest in my life.

I hereby consent to have insurance purchased on my life for the  
benefit of \_\_\_\_\_  
Employer's Name  
\_\_\_\_\_ or a Trust established  
by \_\_\_\_\_  
Employer's Name  
\_\_\_\_\_ with a maximum face  
amount at issue of \$ \_\_\_\_\_. I acknowledge that such  
coverage may continue after I terminate my employment with

\_\_\_\_\_  
Employer's Name  
\_\_\_\_\_. I agree that \_\_\_\_\_  
Employer's Name  
\_\_\_\_\_

or a Trust established by \_\_\_\_\_  
Employer's Name  
\_\_\_\_\_

or its appointed designee or successor, will have all present and future  
rights of ownership in the policy, and will be both the owner and beneficiary  
of the policy indefinitely.

\_\_\_\_\_  
Signature of Insurance Employee

\_\_\_\_\_  
Date Signed





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• Not a deposit • Not FDIC or NCUSIF insured • Not guaranteed by the institution • Not insured by any federal government agency • May lose value

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